

Statement

With 14 Citations, SNHR is a Principal Source in the Case Brought by Dutch/ Canadian Prosecutors Before the ICJ Against the Syrian Regime for Violating the UN Convention Against Torture



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The Syrian Network for Human Rights (SNHR), founded in June 2011, is a non-governmental, independent group that is considered a primary source for the OHCHR on all death toll-related analyses in Syria.

On Tuesday, October 10, 2023, the International Court of Justice (ICJ) held its first public hearing session on the case on the Application of the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, brought by Canada and the Netherlands as State Parties to the [Convention](#), against the Syrian regime (formally named the Canada and the Netherlands v. Syrian Arab Republic). At the request of the two countries, the session focused on imposing what are known as provisional measures on the Syrian regime to compel it to immediately cease torture against potential victims, while the trial of the Syrian regime for the alleged violation of the Convention Against Torture proceeds.

According to the [court session's transcript](#), the case draws upon a number of UN sources, as well as on data provided by the Syrian Network for Human Rights (SNHR), which was cited as a source 14 times, while the Independent International Commission of Inquiry on the Syrian Arab Republic (COI) was cited 24 times.

In her oral argument, Annemarieke Künzli, Legal Counsel to the Kingdom of the Netherlands' Ministry of Foreign Affairs, indicated that the Netherlands and Canada have made joint efforts to move forward with good-faith attempts at negotiations with the Syrian regime, which are well-documented through the exchange of 66 Notes Verbales over the course of three years, as well as through two in-person meetings held in the United Arab Emirates (UAE) in April and October 2022. All of these efforts have been fruitless, however, Ms. Künzli lamented.

On the imperative need to impose provisional measures, Teresa Crockett, the Canada's Deputy Director of the Accountability, Human Rights, and United Nations Law Division of Global Affairs Canada, stressed that there is no doubt that the Syrian regime's continued and repeated violations of the Convention Against Torture "are causing irreparable prejudice to the rights at issue". Such conditions, she underlined, require urgent intervention from the ICJ.

Furthermore, Ms. Crockett pointed out that during the three-month delay period granted to the Syrian regime at its request, SNHR has documented no fewer than 15 cases of death due to torture at the hands of the Syrian regime. She also referenced [SNHR's extensive report](#) which addresses the charges that were met with the capital punishment: **“[Those accusations have] been leveled in a widespread and indiscriminate manner by the regime’s security agencies against thousands of detainees and forcibly disappeared persons... with no grounds except for interrogation records containing ‘confessions’ extracted under the duress of torture.”**

Relatedly, Ms. Crockett noted that SNHR has collected details of the Syrian regime’s “public prosecution’s reliance on confessions extracted under torture, and has confirmation of dozens of detainees having been forced to appear in grotesque ‘confession videos’, which are also broadcast on official State media.”

At the conclusion of the argument, Alan H. Kessel, the Assistant Deputy Minister and Legal Advisor to Global Affairs Canada, outlined the objectives of the seven provisional measures requested, adding an eighth one which was that the “Court require Syria to take several immediate steps to reduce the risk of torture being committed by its officials and others within the system of detention.” He clarified that this includes “issuing instructions to all those involved in the detention system, [and at] checkpoints and hospitals to ensure that detainees are treated in accordance with their inherent human dignity. They should also receive information and training on the prohibition against torture in accordance with Syria’s obligation under Article 10 of the Convention against Torture.”

As it stands, the eight provisional measures as they appear in the court documents *ad verbatim* are:

1. Syria shall immediately take effective measures to cease and prevent all acts that amount to or contribute to torture and other cruel, inhuman or degrading treatment or punishment;
2. In light of the greatly enhanced risk for detainees of being subjected to torture and other cruel, inhuman or degrading treatment or punishment, Syria shall immediately:
 - cease arbitrary detention, and release all persons who are arbitrarily or unlawfully detained;
 - cease all forms of incommunicado detention;

- allow access to all of its official and unofficial places of detention by independent monitoring mechanisms and medical personnel, and allow contact and visitations between detainees and their families and legal counsel; and
 - take urgent measures to improve the conditions of all of its official and unofficial detention facilities to ensure all detainees are treated with humanity and with respect for the inherent dignity of the human person in accordance with international standards;
3. Syria shall not destroy or render inaccessible any evidence related to the Application, including, without limitation, by destroying or rendering inaccessible medical or other records of injuries sustained as a result of torture or other cruel, inhuman or degrading treatment or punishment or the remains of any person who was a victim of torture or other cruel, inhuman or degrading treatment or punishment;
 4. Syria shall safeguard any information concerning the cause of death of any detainee who died while in detention or while hospitalised, including forensic examination of the human remains and places of burial, as well as afford the next of kin of any person who died as a result of torture or other cruel, inhuman or degrading treatment or punishment, following arrest, hospitalisation or detention with a death certificate, stating the true cause of death;
 5. Syria shall disclose the location of the burial sites of persons who died as a result of torture or other cruel, inhuman or degrading treatment or punishment following arrest, hospitalisation or detention, to the next of kin;
 6. Syria shall not take any action, and shall ensure that no action is taken, which may aggravate or extend the existing dispute that is the subject of the Application, or render it more difficult to resolve;
 7. Syria shall provide a report to the Court on all measures taken to give effect to its Order for provisional measures, beginning no later than six months from its issuance and every six months thereafter pending the resolution of the dispute; and
 8. Syria shall take immediate actions to reduce the risk of torture being committed by its officials and other personnel, including by issuing instructions to ensure that detainees are treated in accordance with their human dignity, suspending all personnel suspected of having committed torture or other ill-treatment pending investigation, lifting de facto immunity for those of its officials who commit torture, and ensuring that statements obtained under torture are not used as evidence in any proceedings.”

In closing, Mr. Kessel stressed that **“Justice and accountability are crucial to breaking the cycle of violence and atrocities, and are important as a step towards building a sustainable peace in Syria.”** He added that the detainees currently held in regime detention centers are under the threat of imminent death or severe physical and mental harm, which would also apply to anyone who might be detained in the future. **“Over a decade of inaction has shown that Syria cannot be relied on to refrain, on its own volition and without a binding order from the Court, from inflicting heinous acts of torture and other ill-treatment against its population,”** he added. Moreover, he underscored that thousands of individuals in Syria are still detained, which emphasizes the need to take urgent action to prevent more unnecessary deaths and suffering. Finally, he underlined that the provisional measures requested by the prosecution are **“practical, realistic and consistent with the protections offered by the Court in its previous orders indicating provisional measures,”** stressing that such provisions **“are necessarily comprehensive in order to preserve the rights at issue in the case, which are quite literally a matter of life and death.”**

On its part, the Court expressed its regrets over the non-appearance of the Syrian regime in the oral proceedings. At the session’s conclusion, the cCourt revealed that it will render its Order in a public sitting.

Following the session, Canada and The Netherlands issued [a joint statement](#), in which they stressed that **“they are guided by the strong conviction that there can be no sustainable peace and lasting reconciliation in Syria without justice for victims and survivors.”** Reiterating their commitment to upholding international law, they also called on all states and the international community to support accountability efforts for Syrians. The statement also lamented the Syrian regime’s choice not to appear “in these important proceedings, particularly in light of the three-month postponement granted to facilitate its participation.”

On October 10, 2023, SNHR released a report entitled, [‘The Syrian Regime is Accused of Killing 15,051 Individuals, Including 190 Children and 94 Women, Under Torture in Its Detention Centers Since March 2011, While Nearly 136,000 Remain Forcibly Disappeared’](#), in which the group hailed the case brought by Canada and The Netherlands against the Syrian regime before the ICJ as a serious step on the path of accountability.

As SNHR's database attests, no fewer than **135,638** individuals, including 3,693 children and 8,478 women (adult female), of those arrested since March 2011 up until August 2023 are still under arrest. Of these, **96,103** individuals, including 2,327 children and 5,739 women (adult female) are classified as forcibly disappeared persons, with all of them being subjected to one or multiple forms of torture.

SNHR has also documented **83 methods** of torture used by the Syrian regime in its detention centers.

Despite having ratified the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2004, the Syrian regime has failed to uphold its obligations under the Convention. On the contrary, the regime has practiced torture in the most monstrous and worst possible ways, as shown by the data included in this report, both at the level of execution and through passing local laws that only nominally criminalize torture in a limited, wholly superficial way, while affording impunity to those involved in perpetrating torture.

Furthermore, the Syrian regime practices torture in a systematic and widespread manner, violating the right to life, which constitutes a blatant breach of international human rights law. It has been repeatedly proven that the Syrian regime leadership has full knowledge of these practices, and is fully aware that these inhumane detention conditions lead inevitably to detainees' deaths. The Syrian regime has deliberately allowed for, and carried out such practices through a decision made by a hierarchy that begins from the President of the Republic; answering directly to him are the ministers of defense and interior and the National Security Bureau, and their affiliated security apparatuses.

We, at SNHR, believe in the importance of this trial as a serious step on the path of long overdue accountability, after the Syrian regime has been given absolute impunity for 13 years. We hope the court will impose the harshest possible provisional measures against the Syrian regime, which is known for destroying evidence and for its refusal to cooperate with UN bodies, or international and local human rights organizations.



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No justice without accountability

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